

### 5.5 CULTURAL RESOURCES

This section summarizes the prehistoric and historic context of the project region, describes the regulatory framework for evaluating cultural and paleontological resources, and discusses potential impacts on cultural, historic, and paleontological resources as a result of implementation of the proposed project. Several Notice of Preparation (NOP) comment letters were received regarding cultural and historic resources. The letters are included in Appendix A of this Environmental Impact Report (EIR). The following documents were used to analyze the potential impacts from the proposed project:

- *A Cultural and Historic Resources Survey and Evaluation for the Quarry Creek Project*, ASM Affiliates, Inc. October 2012 (Appendix I of this EIR);
- *Visual Impacts Assessment on the Marron-Hayes Historic District for the Quarry Creek Master Plan Environmental Impact Report*, ASM Affiliates, Inc. October 5, 2012 (Appendix F of this EIR);
- *Geotechnical Investigation*, Geocon, Inc., May 2012 (Appendix J-2 of this EIR); and
- *Former South Quarry Amended Reclamation Plan Draft and Final EIR (referred to herein as Reclamation Plan EIR)*, HELIX Environmental Planning Inc., September 2008 and February 2010, respectively.

The technical appendices are included on the attached CD found on the back cover of this EIR. Additional background information was also gathered from the City of Carlsbad General Plan and Zoning Ordinances.

#### 5.5.1 Existing Conditions

##### **Prehistoric Cultural Setting**

Despite intense interest and a long history of research, no widely accepted evidence of very early human occupation in the San Diego region has emerged (ASM 2012). San Diego prehistory has the La Jolla complex reaching its population and cultural climax between 7,000 and 4,000 years ago when there was a plentiful supply of shellfish in the lagoons along the coast (Warren et al. 1961:25, as cited by ASM 2012). Major changes in human adaptations occurred after 2000 B.C., when estuary silting is thought to have become as extensive as to cause a decline in associated shellfish populations. A major depopulation of the coastal zone has been postulated, with settlements shifting inland to river valleys, intensifying the exploitation of terrestrial small game and plant resources, including a strong focus on acorns (Christenson 1992; Crabtree et al. 1963; Gallegos 1985, 1987, 1992; Masters and Gallegos 1997; Rogers 1929:467; Warren 1964, 1968; Warren and Pavesic 1963; Warren et al. 1961, as cited by ASM 2012).

The coast was abandoned or only seasonally occupied, but with a possible revival in coastal occupation after A.D. 400-800. An exception to this scenario was the San Diego Bay and Mission Bay area and more recently extended to include the Peñasquitos Lagoon/Sorrento Valley area (Gallegos 1992, as cited by ASM 2012). The broad perception of the region's coastal adaptations has remained largely unchanged (Byrd 1998, as cited by ASM 2012).

The Late Prehistoric period is represented by the San Luis Rey complex in northern San Diego County. Local cultural distinctions have been drawn between the northern (San Luis Rey) and southern (Yuman or Cuyamaca) complexes. This period was characterized by the appearance of small, pressure-flaked arrow

points (Cottonwood triangular, Desert side notched, and Dos Cabezas serrated forms) indicative of a bow-and-arrow technology, the appearance of ceramics, the replacement of flexed inhumations with cremations, extensive use of the mortar and pestle, and an emphasis on collecting and processing inland plant foods, especially acorns (Christenson 1990; McDonald and Eighmey 2008; Meighan 1954; Rogers 1945; True 1966; Warren 1964, 1968, as cited by ASM 2012).

### **Ethnohistoric Present**

Acculturation, assimilation, and the introduction of Old World diseases greatly disrupted and reduced Native American populations, and by the early 1800s traditional coastal villages were largely abandoned (Carrico 2008, as cited by ASM 2012). As a result, very little is known about traditional coastal life, except what can be learned from mission records. From north to south, coastal San Diego County was occupied by Luiseño (including Juaneño) and Kumeyaay groups (Bean and Shippek 1978; Kroeber 1925; Luomala 1978, as cited by ASM 2012). Luiseño territory ranged from Agua Hedionda Lagoon (or possibly Batiquitos Lagoon) in the south to Aliso Creek in Orange County in the northwest, to near Santiago Peak in the northeast, and to the Palomar Mountain area in the southeast. The Luiseño are linguistically and culturally closely related to the Gabrielino, Cupeño, and Cahuilla to the north and east.

The Luiseño are considered to be relatively complexly organized hunter-gatherers, with noteworthy characteristics including a comparatively elaborate social structure and a moderately high population density (Bean and Shippek 1978, as cited by ASM 2012). The Luiseño were divided into several autonomous lineages or kin groups defined by patrilineal descent and practicing patrilocal residence. To the south of the present study area, the Yuman-speaking Kumeyaay (also termed Diegueño, Ipai, and Tipai) occupied a larger and more diverse environment including coastal, foothill, mountain, and desert zones (Luomala 1978; Shippek 1982; Spier 1923, as cited by ASM 2012).

### **Historic Period (1769 – Present)**

The project site is at the northern end of the 13,000-acre Mexican land grant of Agua Hedionda, granted to Juan María Romoulo Marron in 1842 (Moyer 1969, as cited by ASM 2012). The original Marron Adobe is located several miles from the project site. The second Marron Adobe was built by Sylvestre Marron adjacent to the project site between 1842 and 1851. The ruins of this adobe form the core of the Marron-Hayes Historic District, adjacent to the project site.

After the Mexican-American War, land ownership in California became highly controversial, despite protection of Mexican citizens' ownership rights under the Treaty of Guadalupe Hidalgo in February 1848 (ASM 2012). Proof of rancho land ownership with the "new" government meant years of effort to obtain a federal patent, and many rancheros had difficulty maneuvering through the process. Capitalizing on the uncertainty of those transitional years, Anglo settlers increasingly squatted on land that belonged to *Californios* and began challenging the validity of Spanish-Mexican claims through the 1851 Board of Land Commissioners (Garcia 1975:15-16, 22-24, as cited by ASM 2012).

The confirmation of ranchos' boundaries in the late 1860s and early 1870s drew additional settlers as land became officially conveyable. Small farming communities were quickly established throughout San Diego County, and a completed transcontinental railroad in November 1885 helped to initiate an unprecedented real estate boom for New Town in San Diego that spilled over the county. Most of the Rancho Agua Hedionda eventually became the property of Robert Kelly, with just 360 acres remaining in the Marron family (Moyer 1969, as cited by ASM 2012). Sylvestre Marron's daughter Felipa married J. Chauncey Hayes, son of Judge Benjamin Hayes in 1875, and they built an adobe near the second

Marron Adobe. The second Marron Adobe no longer exists, but the site is recorded as archaeological site SDI-9474H. In 1947, Fred Hayes, son of Felipa and Chauncey Hayes, undertook the restoration of the Marron-Hayes Adobe. This building, together with the site of the second Marron Adobe, forms the core of the Marron-Hayes Historic District, which has been determined eligible for listing in the National Register of Historic Places (NRHP) and the California Register of Historic Resources (CRHR).

### **Investigations and Cultural Resources in the Vicinity of the Project Site**

According to ASM, William Wallace conducted an extensive survey of the Buena Vista Creek watershed during the 1950s, recording 37 campsites. Several sites were recorded adjacent to the project site, although none were recorded within it. Lithic scatters, ground stone and bedrock milling features were recorded at the majority of the sites, while marine shell was recorded at approximately half of the sites. Native ceramics (Tizon brownware) were recorded at just three locations. Wallace concluded that the sites indicate occupation during three distinct periods: the La Jolla, Pauma, and Late Prehistoric periods (Wallace 1960, as cited by ASM 2012). According to ASM's report, Wallace suggested that the Luiseño had abandoned the area prior to the settlement of the region by white settlers as there was no contact-period cultural material recorded at any of the sites.

Wallace recorded one site in 1958, SDI-631, off-site and adjacent to the southwestern boundary of the project site. It was described as a prehistoric campsite on a high sandy hill overlooking Buena Vista Creek. Surface artifacts recorded included a number of manos, a metate fragment, 11 choppers, three cobble pestles, 12 hammer stones, and a shaped pestle fragment. This site has been destroyed as a result of development. Two additional sites, SDI-632 and SDI-633, were also recorded to the east of the project site. These sites also appear to have been destroyed, as neither site was recorded during a 1984 survey of the South Coast Asphalt Products Company (Gallegos and Carrico 1984a, as cited by ASM 2012) or a 1989 survey of the same area (Robbins-Wade and Gross 1989, as cited by ASM 2012).

The Marron-Hayes Adobes Historic District is located immediately west of the Reclamation parcel (see Section 4.0, Figure 4-1 for an aerial photo of the project site and surrounding area). This historic district is composed of SDI-5652/H Locus C (the Marron-Hayes Adobe) and SDI-9474H (the remnants of the Marron Adobe) (Kyle and Phillips 2000; Gallegos & Associates 2000, as cited by ASM 2012). The district is listed in the CRHR and has been determined eligible for listing in the NRHP. Site SDI-9474H is located approximately 0.25 mi. west of the restored Marron-Hayes Adobe and is situated on a small knoll located off the project site and just north of Buena Vista Creek. A scatter of construction debris (including bricks), a scatter of historic artifacts, and two possible privies are recorded at the site SDI-9474H. The investigators concluded that this was the site of the adobe belonging to J. Chauncey Hayes and Felipa Hayes, daughter of Sylvestre Marron (Kyle et al. 2000a, 2000b, as cited by ASM 2012). Site SDI-5652/H includes the Marron-Hayes Adobe, originally constructed around 1875 and restored in 1947, and a Late Holocene prehistoric habitation-site adjacent to it. Site testing in 1999 identified two loci and recovered significant amounts of lithic debitage, ground stone, ceramics, shell and bone beads, in addition to quantities of animal bone and marine shell (Kyle et al. 2000b, as cited by ASM 2012). The prehistoric component was determined eligible to the NRHP and the CRHR.

Two prehistoric sites, SDI-9472 and SDI-9473, located to the west of the Marron-Hayes Adobes Historic District and north of Buena Vista Creek were recorded in 1982. Both were recorded as scatters of marine shell and lithic debitage on small knolls. It appears that SDI-9472 was destroyed as a result of construction in the vicinity of the State Route 78 (SR-78) and the area where the Rancho del Oro interchange is shown on circulation element maps (Kyle et al. 2000a; Robbins-Wade 2008a, as cited by ASM 2012). Site SDI-9473 was evaluated in association with improvements to SR-78 and was

recommended not eligible for listing due to a lack of integrity (Corum and White 1982, as cited by ASM 2012).

### **Previous Investigations of the Project Site**

An extensive cultural resources site, SDI-5601 (SDM-W-1293), located off-site, south and east of the project site, was originally recorded in 1977 as covering an area of three acres. Four concentrations of cultural material were noted, including ground stone and flaked stone artifacts, fire-affected rock, and shell (ASM 2012). A testing and data recovery program was conducted outside the project site prior to the construction of the existing residential development, and impacts to the site were considered mitigated to below a level of significance (Hector 1983, as cited by ASM). The portions of site SDI-5601 that extend into the project site were not evaluated as part of that prior investigation.

Much of the Panhandle parcel is occupied by an extensive cultural resources site, SDI-5651, that covers most of the northern ridgeline of the Panhandle parcel, as well as a ridge in the southeast portion of the parcel. It also extends east into the Reclamation parcel. According to the South Coastal Information Center (SCIC) on-file site record, site SDI-5651 was originally recorded in 1977 (ASM 2012). Additionally, the SCIC on-file site record indicates that a 1981 survey recorded the site as “an extensive prehistoric campsite with varying densities of artifactual material possibly suggesting several loci of activity” (ASM 2012). The 1981 report mapped the site as extending east across the Panhandle property and into the former Quarry Reclamation parcel (Wlodarski and Romani 1981:14, as cited by ASM 2012). In 1983, five separate sites along the ridge of the Panhandle parcel were recorded (Hector 1983, as cited by ASM 2012). The 1983 report indentified the loci as individual shellfish processing locations. These were later identified as loci of the previously recorded site (ASM 2012).

The project site was surveyed again in 1984 for cultural resources. One site, SDI-9967, located in the north of the Reclamation parcel, was recorded and evaluated for significance under the California Environmental Quality Act (CEQA). It was determined to be not significant due to the small quantity of cultural material recovered (ASM 2012). Between 2005 and 2008, Affinis conducted a cultural resource inventory and evaluation of the 104-acre Reclamation parcel for the South Coast Material Quarry Amended Reclamation Plan EIR (ASM 2012). Five archaeological sites (SDI-5601, SDI-5651, SDI-9967, SDI-17,863, and SDI-17,864) were recorded within the 104-acre Reclamation parcel area (note: this 104-acre area includes the Oceanside parcel located immediately east and outside of the project site), either entirely within or partially extending into the project site. Three of these sites had been previously recorded, and two were identified during Affinis’ study. As a result of Affinis’ evaluation program, none of the archaeological sites within the Reclamation parcel was found to be a significant archaeological resource and none of the sites qualified as historical resources under CEQA (ASM 2012).

In 2005, Affinis also conducted a cultural resource inventory of the Panhandle parcel. Due to heavy vegetation the boundaries of SDI-5601 and SDI-5651 and the loci of SDI-5651 could not be properly delineated. Affinis noted considerable overlap between the two sites’ boundaries. A testing program to evaluate site SDI-5651 and the remnant of SDI-5601 that extends into the project site parcel was recommended for significance under CEQA (Robbins-Wade 2008b, as cited by ASM 2012). ASM conducted excavation of three shovel test pits within the portion of this site that extends into the Panhandle parcel of the project site resulted in the recovery of 2.2 g of shell and no artifacts (ASM, 2012). The portion of SDI-5601 within the project site is not eligible for listing in the CRHR, as it has no evident research potential; therefore, SDI-5601 is not considered a historical or archaeological resource under CEQA and the City’s cultural resource guidelines.

The Native American Heritage Commission (NAHC) was contacted by ASM regarding the proposed project on August 3, 2011. Dave Singleton of the NAHC responded to ASM's letter, providing a list of Native American tribes and individuals who should be contacted regarding the project.

ASM sent a letter to each of the listed groups and individuals requesting information regarding Native American Traditional Cultural Properties, sacred sites or other cultural resource issues of concern. ASM is maintaining a log of all communications with tribal groups and individuals who respond to the request for information. ASM Principal Sinéad Ní Ghabhláin coordinated all aspects of the field testing program with Carmen Mojado of Saving Sacred Sites, the Native American Monitoring Supervisor. Mojado ensured that a Native American monitor was present for all the field survey, testing, and surface collection. Banning Taylor, Los Coyotes Band of Cahuilla and Cupeño Indians, served as the Native American monitor for the site evaluation. As part of these communications, the San Luis Rey Band of Mission Indians requested additional testing to further define the extent of two previously evaluated loci within CA-SDI-5651, Locus 1 and Locus 3. This additional testing is described in the preceding text, and determined that the portion of CA-SDI-5651 is not considered a historical or archaeological resource under CEQA and the City's cultural resource guidelines. Mitigation measures outline in Section 5.5.5 include measures as a result of consultation with the San Luis Rey Band.

Furthermore, the City of Carlsbad has initiated consultation with appropriate tribes pursuant to Senate Bill (SB) 18 Tribal Consultation requirements. To date, the City has held two formal meetings (April 10, 2012 and May 11, 2012) with both the San Luis Ray band of Mission Indians and the Pechanga Tribe.

### **Paleontological Resources**

Paleontology is the science dealing with pre-historic plant and non-human animal life. Paleontological resources (or fossils) encompass the remains or traces of hard and resistant materials such as bones, teeth, or shells, although plant materials and occasionally less resistant remains (e.g., tissue or feathers) can also be preserved. The formation of fossils typically involves the rapid burial of plant or animal remains and the formation of casts, molds, or impressions in the associated sediment (which subsequently becomes sedimentary rock). As a result of this process, the potential for fossil remains in a given geologic formation can be predicted based on known fossil occurrences from similar (or correlated) geologic formations in other locations.

According to the Reclamation Plan EIR, there are no recorded fossil occurrences or collection efforts within the project site. Paleontological resource potential can be inferred from on-site geology and off-site fossil occurrences in similar materials (HELIX 2010).

Based on the results of the Preliminary Geotechnical Investigation for the proposed project prepared by Geocon in May 2012, surficial materials and geologic formations observed or expected to occur within the project site include various fill deposits, native topsoils, alluvium and colluvium, terrace deposits, Tertiary volcanics, the Santiago Formation, and the Salto Intrusive.

### **Soil and Geologic Conditions**

The geology of the project site is dominated by Jurassic-age intrusive rocks, which are exposed in portions of the site and underlie the entire project site and vicinity. These intrusive rocks (which were the principal source of aggregate materials for the former quarrying operations) are overlain by a number of geologic and surficial deposits within the site, including Tertiary sedimentary and volcanic units; Quaternary terrace deposits, alluvium and colluvium; and recent topsoil and fill materials (HELIX 2010).

The majority of the Reclamation parcel site has been previously developed and disturbed in association with quarrying operations, although most related quarry facilities have been removed. Much of the original topographic profile has been altered through previous mining and subsequent reclamation activities and disposal of waste materials.

According to Geocon, seven surficial soil deposits and four geologic formations were encountered and/or mapped on the property. Surficial soil deposits include undocumented fill, compacted fill, previously placed fill, topsoil (unmapped), surficial landslide debris, alluvium, and colluvium. Formational units include Quaternary-age Terrace Deposits, Tertiary-age Volcanic Rock, Santiago Formation, and Jurassic-age Salto Intrusive rock. Hazards associated with soils and geologic conditions are discussed in Section 5.6 of this EIR. The soils and geologic conditions information presented in this section relates to potential paleontological resources.

**Compacted Fill (Qcf).** Compacted fill placed during reclamation grading exists across the northeast portion of the property. The fill is predominately comprised of silty to clayey sand with varying amounts of rock fragments, soil rock fills, and windrows of oversize rock and concrete.

**Undocumented Fill (Qudf).** Undocumented fill exists in the northeast portion of the project site and just west of the graded portion of the Reclamation parcel near the central portion of the project site. The majority of the undocumented fill will be removed to achieve pad grades for the project. Where it is not removed, remedial grading to remove the undocumented fill will occur. A limited amount of undocumented fill was left in-place near the central portion of the property during reclamation grading due to the presence of groundwater. These fills are the result of waste product generated from mining activities being stockpiled and/or spread out across the property. The undocumented fill is comprised of loose, dry to wet, very porous, sandy, coarse gravel with oversize rock fragments.

Undocumented fill also exists in the northeast portion of the project site, beyond the reclamation grading limits.

**Previously Placed Compacted Fill (Qpcf).** Limited areas in the northeastern and southeastern portions of the project site are underlain by previously placed compacted fill. According to a report by Ninyo and Moore (August 31, 2000), most of the approximately 10 feet of documented fill in the bottom of the northern pit area had been placed between approximately 1988 and 2000. The fill generally consists of interlayered, medium dense to dense, clayey and silty sand, clayey gravel and stiff sandy clay.

**Previously Placed Fill (Qpf).** Previously placed fill deposits are associated with existing roadway and residential development along the north and south project site boundaries, respectively. These materials typically consist of variable amounts of silt, sand, clay and gravel, and may include undocumented and/or compacted fill.

**Alluvium (Qal).** Alluvial deposits are present within the major east-west drainage of Buena Vista Creek, as well as in the northeastern and southwestern tributary canyons that converge with Buena Vista Creek in the central portion of the project site. The alluvial soils generally consist of loose, porous dark gray to dark brown, very clayey, fine to medium sand, and clayey sand and silt with occasional layers of slightly silty sand. Areas of deepest alluvium are located in the central portion of the project site, adjacent to the original channel of Buena Vista Creek and its tributaries.

**Colluvium (Qc).** Colluvial deposits were encountered in the southwest portion of the project site mostly along the sides of the draining tributary canyons. Colluvium is comprised of approximately 4 to 6 feet of loose dark brown, very clayey to silty, fine sand.

**Terrace Deposits (Qt).** Extensive and thick river terrace deposits consisting of medium-dense to dense, light reddish-brown to olive-brown, gravelly, silty to clayey, medium to coarse sand to cohesionless sand with occasional layers of silty clay are present in the western and southwest portions of the project site.

**Tertiary Volcanics (Tv).** Tertiary-age volcanic rocks are present in a limited lens-shape area exposed in the southeast portion of the project site in the existing 2:1 cut slope between approximate elevations 120 to 140 feet above mean seal level (AMSL). It consists of deeply weathered, massive light reddish-brown, moderately strong, volcanic tuff.

**Santiago Formation (Ts).** The Eocene-aged Santiago Formation (between approximately 38 and 55 million years old), consisting of dense, massive bedded light brown to greenish-gray sandstones and thin interbedded siltstones is present in the north-central and south-central portions of the project site.

**Salto Intrusive (Jspi).** The Jurassic-aged Salto Intrusive consists of a steeply jointed, dark gray, very strong tonalite to gabbro rock considered to be older than the Peninsular Range Batholith and more closely related to the formation of the Santiago Peak Volcanics (Larsen 1948, as cited by Geocon 2012). This granitoid bedrock unit is present in the northeast and southeast corners of the project site and is the predominant geologic unit that has been mined for aggregate on the project site.

### 5.5.2 Regulatory Setting

#### National Historic Preservation Act

Enacted in 1966, the National Historic Preservation Act (NHPA) established the NRHP program under the Secretary of the Interior, authorized funding for state programs with provisions for pass-through funding and participation by local governments, created the Advisory Council on Historic Preservation, and established the Section 106 review process for protecting historic resources. The goal of the Section 106 review process is to offer a measure of protection to sites that are determined eligible for listing in the NRHP. As part of this process, *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Preserving Historic Buildings (Secretary of Interior's Standards)* were developed to provide guidance to federal agencies in reviewing potential impacts to historic resources. The NHPA provides the legal framework for most state and local preservation laws.

#### California Register of Historical Resources

The Office of Historic Preservation (OHP) administers the California Register, which was established in 1992 through amendments to the Public Resources Code, as an authoritative guide to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate what properties are to be protected from substantial adverse change. The California Register includes resources that have been formally determined eligible for, or listed in, the NRHP, State Historical Landmark Number 770 or higher, Points of Historical Interest recommended for listing by the State Historical Resources Commission (SHRC) for listing, resources nominated for listing and determined eligible in accordance with criteria and procedures adopted by the SHRC, and resources and districts designated as city or county landmarks when the designation criteria are consistent with California Register criteria.

### **California Environmental Quality Act**

With establishment of the California Register and the SHRC, the State Legislature amended CEQA in 1992 to define historical resources as a resource listed in, or determined eligible for listing in, the California Register; a resource included in a local register of historical resources or identified as significant in a historical resource survey that meets certain requirements; and any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be significant. Generally, a resource is considered to be historically significant if it meets the criteria for listing in the California Register. However, a Lead Agency under CEQA is not precluded from determining a resource is significant that is not listed in or determined eligible for listing in the California Register, not included in a local register, or identified in a historical resources survey as a historical resource, as defined in the Public Resources Code.

CEQA was further amended to clarify that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment. While demolition and destruction are fairly obvious significant impacts, it is more difficult to assess when change, alteration, or relocation crosses the threshold of substantial adverse change. The *CEQA Guidelines* provide that a project that demolishes or alters those physical characteristics of a historical resource that convey its historical significance (i.e., its character-defining features) can be considered to materially impair the resource's significance. However, a project that conforms to the Secretary of the Interior's Standards for the Treatment of Historic Properties can generally be considered a project that will not cause a significant impact.

### **California Health and Safety Code**

California Health and Safety Code Section 7050.5 regulates the procedure in the event of human remains discovery. Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the County Coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are determined to be Native American, the coroner is required to contact the NAHC. The NAHC is responsible for contacting the most likely Native American descendent, who will consult with the local agency regarding proper treatment and distribution of the remains. According to Section 15064.5 of the *CEQA Guidelines*, all human remains are a significant resource.

### **Senate Bill 18 Native American Consultation**

Senate Bill 18, which added new provisions to the Government Code (specifically, Section 65352.3 and 65352.5) requires local governments to consult with California Native American tribes identified by the NAHC for the purpose of protecting, and/or mitigating impacts to cultural places.

### **City of Carlsbad General Plan – Open Space and Conservation Element**

The Open Space and Conservation Element of the General Plan establishes policies for the development of a comprehensive, connected open space system and for the protection and conservation of the city's natural and historic resources. Section 5.10 of this EIR lists the applicable goals, policies and programs with regards to cultural and historic resources.



### **City of Carlsbad Municipal Code – Historic Preservation (Chapter 22.06)**

Chapter 22.06 of the City’s Municipal Code states that a historic resource may be considered and approved by City Council for inclusion in the city’s historic resources inventory based on one or more of the following:

- It exemplifies or reflects special elements of the city’s cultural, social, economic, political, aesthetic, engineering or architectural history;
- It is identified with persons or events significant in local, state or national history;
- It embodies distinctive characteristics of a style, type, period or method of construction, is a valuable example of the use of indigenous materials or craftsmanship or is representative of a notable work of an acclaimed builder, designer or architect;
- It is an archaeological, paleontological, botanical, geological, topographical, ecological or geographical site which has the potential of yielding information of scientific value;
- It is a geographically definable area with a concentration of buildings, structures, improvements, or objects linked historically through location, design, setting, materials, workmanship, feeling and/or association, in which the collective value of the improvements may be greater than the value of each individual improvement.

The Marron Adobe is not listed in the City’s historic resources inventory.

### **5.5.3 Project Impacts**

#### ***5.5.3.1 Thresholds of Significance***

#### **California Environmental Quality Act**

As defined in Appendix G of the *CEQA Guidelines*, project impacts to cultural resources would be considered significant if the project was determined to:

- Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 of the *CEQA Guidelines*;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature;
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the *CEQA Guidelines*; or
- Disturb any human remains, including those interred outside of formal cemeteries.

### **City of Carlsbad Cultural Resource Guidelines – Municipal Code Chapter 22.06**

A cultural resource is considered significant when it:

- Exemplifies or reflects special elements of the city’s cultural social, economic, political, aesthetic, engineering, or architectural history;
- Is identified with persons or events significant in local, state, or national history;

- Embodies distinctive characteristics of a style, type, period, or method of construction, is a valuable example of the use of indigenous materials or craftsmanship, or is representative of a notable work of an acclaimed builder, designer, or architect;
- Is an archaeological, paleontological, botanical, geological, topographical, ecological, or geographical site which has the potential of yielding information of scientific value; or
- Is a geographically definable area possessing concentration of sites, buildings, structures, improvements, or objects linked historically through location, design, setting, materials, workmanship, feeling, and/or association, in which the collective value of the improvements may be greater than the value of each individual improvement.

### Cultural Landscapes

The concept of cultural landscapes as a distinct type of cultural resource is relatively new, and CEQA does not address the treatment of cultural landscapes directly. The Statewide Historic Preservation Plan for California, 2012-2017, identifies 10 priority issues in Historic Preservation including promoting the identification and protection of California's significant cultural landscapes (California Office of Historic Preservation 2012, as cited by ASM). At this point in time guidelines for identifying and evaluating cultural landscapes under CEQA have not been developed. Cultural landscapes are recognized as a cultural resource type eligible for inclusion in the National Register, and the National Park Service (NPS) has developed guidelines for evaluating cultural landscapes under Section 106 of the National Historic Preservation Act (NHPA) (Birnbaum 1994; Birnbaum and Peters 1996; McClelland 1990, as cited by ASM). In *Protecting Cultural Landscapes, Planning, Treatment and Management of Historic Landscapes* (Birnbaum 1994, as cited by ASM), a cultural landscape is defined as a:

“geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity or person or exhibiting other cultural or aesthetic values.”

Four types of cultural landscapes are defined: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes. An ethnographic landscape is “a landscape containing a variety of natural and cultural resources that associated people define as heritage resources” (Birnbaum 1994, as cited by ASM). Ethnographic landscapes may include religious sites, settlements, man-made features, natural landforms, plant communities and animals.

The *County of San Diego Guidelines for Determining Significance* (San Diego County 2006) recognizes cultural landscapes and traditional cultural properties as being closely related:

A cultural landscape is a geographic area which, because of a unique and integral relationship between the natural and cultural environments, has been used by people; shaped or modified by human activity, occupation or invention; or is infused with significant value in the belief system of a culture or society... Landscapes provide a distinct sense of time and place. Traditional cultural landscapes (Traditional Cultural Properties) can also consist of related archaeological and ethnographic features and places.

As stated by Affinis, the entire Buena Vista Creek watershed can be considered a traditional cultural or ethnographic landscape in that the area was intensively used by the ancestors of the Luiseño people over several thousand years and the area continues to be of importance to the Luiseño community today.

However, Affinis described the area as a “former” cultural landscape because after decades of development, only remnants of the former cultural landscape remained.

The identification of a cultural landscape does not necessitate a finding of significance. Not all possible landscapes will be found eligible for the National Register or California Register or require a full landscape study, particularly if it lacks qualities that could possess the potential for significance.

In evaluating cultural landscapes, the significance and integrity of the overall landscape and its components must be considered. Historic significance is “the recognized importance a property displays when it has been evaluated, including when it has been found to meet National Register Criteria” (Birnbaum 1994). In order for a cultural landscape to be determined significant it must retain sufficient integrity.

Integrity is the authenticity of a historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance. Historical resources eligible for listing in the California Register must meet one of the criteria of significance and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance (California Office of Historic Preservation Technical Assistance Series #6).

In order for a landscape to have integrity, these character-defining features or qualities that contribute to its significance must be present. Integrity is a property’s historic identity evidenced by the survival of physical characteristics from the property’s historic or pre-historic period. The seven qualities of integrity are location, setting, feeling, association, design, workmanship and materials.

### **Paleontological Resources**

The Reclamation Plan EIR evaluated each of the identified geologic units in the project area for paleontological resource potential and assigned a sensitivity rating, based on the following criteria (HELIX 2010):

- **High Sensitivity** – Geologic formations with high sensitivity generally produce (or have strong potential to produce) vertebrate fossil remains and/or other fossil materials of substantial scientific value.
- **Moderate Sensitivity** – Moderate sensitivity is assigned to formations exhibiting either: (1) known occurrences of poorly preserved, common (i.e., abundant) or stratigraphically unimportant fossil remains; or (2) formations with a strong but unproven potential to produce important fossils (e.g., vertebrates).
- **Low Sensitivity** – Formations with low sensitivity typically include materials that are geologically recent and/or formed in high-energy environments (e.g., alluvial deposits), and contain primarily small quantities of invertebrate fossil remains that are not of substantial scientific value.
- **Unknown Sensitivity** – Unknown sensitivity is assigned to formations which are not currently known to produce paleontological resources, but which have some potential for producing fossils based on their sedimentary origin.
- **No Sensitivity** – Formations with no sensitivity include materials with no potential to produce fossil remains due to their molten origin (e.g., granitic or volcanic rocks), recent age/destructive

nature of formation (e.g., topsoil deposits), or artificial origin and emplacement (e.g., fill deposits).

### ***5.5.3.2 Environmental Impacts***

#### **Historical or Archaeological Resources**

The existing known cultural resources sites found during previous studies as described above in Existing Conditions were evaluated by ASM for historical significance. The findings are presented in the Cultural and Historical Resources Evaluation in Appendix I of this EIR and summarized below. Implementation of the proposed project will involve grading of the project site, which would impact cultural resources located within the site. The detailed limits of grading are identified on the Vesting Tentative Map provided in EIR Appendix C.

#### ***Marron-Hayes Adobes Historic District***

As previously discussed, the Marron-Hayes Adobes Historic District was recommended eligible for the NRHP and CRHR in 2001. The district is composed of the Marron-Hayes Adobe, the Hayes Adobe ruins, and their associated archaeological sites. The Marron-Hayes Adobe and Hayes Adobe are both determined to be eligible for listing in the NRHP and the CRHR under Criterion A/1 for their association with the pioneer settlement of the Oceanside/Carlsbad area and Criterion B/2 for their association with the Hayes and Marron families. The Marron-Hayes Adobe was also recommended eligible for under Criterion C/3, as a significant and largely intact example of a late Mexican Era adobe in San Diego County as well as an excellent example of the Mission Revival style of the mid-twentieth century. Additionally, the Hayes Adobe is eligible under Criterion D/4 on the basis that it is a site likely to yield information important in history.

The Marron-Hayes Adobe and Hayes Adobe are located adjacent to, but not within, the project site. Construction and implementation of the Master Plan would not result in physical alterations to the Marron-Hayes Adobes Historic District or structures within the Historic District. A less than significant impact is identified with regards to physical impacts to the cultural resources within the Marron-Hayes Adobes Historic District. No mitigation is required.

Development of the proposed project will result in changes to the visual landscape of the project site which could obstruct or visually alter the view of this Historic District. Visual impacts to the Marron-Hayes Adobes Historic District are analyzed in Section 5.1 of this EIR.

#### ***Site SDI-5601***

Excavation of three shovel test pits within the portion of this site that extends into the Panhandle parcel of the project site resulted in the recovery of 2.2 g of shell and no artifacts. The portion of SDI-5601 that extends into the Reclamation parcel was found to be extremely disturbed and no cultural material was recorded within the site boundaries during site evaluation in 2008 (Robbins-Wade 2008a, as cited by ASM 2012). The portion of SDI-5601 within the project site is not eligible for listing in the CRHR, as it has no evident research potential; therefore, SDI-5601 is not considered a historical or archaeological resource under CEQA and the City's cultural resource guidelines. No impact is identified for this site; therefore, no mitigation is required.

### ***Site SDI-5651***

The grading associated with the proposed project would impact CA-SDI-5651 Loci 2-6. CA-SDI-5651 Locus 1 will be preserved in open space. Locus 1 is recommended eligible for listing in the CRHR and considered a cultural resource under CEQA and the City's cultural resource guidelines. Subsurface deposits are present at Locus 1 to a depth of 70 cm, and these deposits contain a sufficient quantity and range of cultural materials for analysis. Site disturbance was observed at Locus 1, but the disturbance was confined to small areas of the site. The boundaries of Locus 1 were reconfirmed as part of the updated investigation and testing for this site as was requested by the San Luis Rey Band of Mission Indians and summarized in the *Memo Update on Cultural Resource Study for Quarry Creek Project, Carlsbad, California*, ASM Affiliates, Inc. August 2012; (Appendix I of this EIR). It is highly probable that relatively undisturbed deposits remain. Construction activities could inadvertently impact this resource if not properly shielded from construction activities. This is considered a potentially significant impact and Mitigation Measure CR-1 is required as outlined in Section 5.5.5. Locus 1 will be preserved in open space. Therefore, post-construction activities will not result in a significant impact to this resource. Implementation of Mitigation Measure CR-1 will reduce the impact to Site SDI-5651 to a level less than significant.

Loci 2, 3, 4, 5, and 6 are recommended to be non-contributory elements. Loci 4, 5, and 6 contain neither a sufficient density nor a sufficient range of cultural material to address research questions. Loci 2 and 3 contained a moderate density and range of cultural materials. However, at these loci, deposits were confined to the site surface and near-surface. An intensive surface collection yielded a diverse range of cultural material, including tools. The boundaries of Locus 3 were extended as a result of additional analysis and testing (ASM 2012). However, the research potential of Loci 2 and 3 has been exhausted through the intensive surface collection, and they are therefore not recommended eligible for listing in the CRHR and are not considered historical resources under CEQA. No significant impact is identified for Loci 2-5; however, based on consultation with the San Luis Rey Band, Mitigation Measure CR-4 shall be implemented.

The portion of the SDI-5651 that extends into the Reclamation parcel was recommended to be not significant by Robbins Wade in 2008 (Robbins-Wade 2008a, as cited by ASM 2012); therefore, the project would not result in an impact to historical or archaeological resources at these loci.

### ***Site SDI-9976***

SDI-9976 was evaluated by Gallegos and Carrico in 1984 and determined not to be a significant resource due to its general lack of research potential (Gallegos and Carrico 1984b, as cited by ASM 2012); therefore, implementation of the proposed project would not result in impacts to historical or archaeological resources located at SDI-9976 as identified under CEQA and the City's cultural resource guidelines. No impact is identified for this site; however, based on consultation with the San Luis Rey Band, Mitigation Measure CR-4 shall be implemented.

### ***Site SDI-17863***

SDI-17863 was evaluated in 2008 and recommended not eligible for listing in the CRHR due to a lack of research potential (Robbins-Wade 2008a, as cited by ASM 2012); therefore, implementation of the proposed project would not result in impacts to historical or archaeological resources located at SDI-17863 as identified under CEQA and the City's cultural resource guidelines. No impact is identified

for this site; however, based on consultation with the San Luis Rey Band, Mitigation Measure CR-4 shall be implemented.

### ***Site SDI-17864***

SDI-17864 is a small shell scatter with a low-density lithic scatter. This resource will remain in open space and will not be impacted by development; therefore, no impact is identified. No impact is identified for this site; therefore no mitigation is required.

### ***El Salto Falls***

The El Salto Falls has been identified by the San Luis Rey Band and the Luiseño tribe as a sacred site, used for tribal religious ceremonies and important in their cultural history. The Falls was designated a sacred site by the Native American Heritage Commission in 2001, and was evaluated by Affinis in 2008 and recommended eligible for inclusion in the CRHR and NRHP as a Traditional Cultural Property (TCP) (Robbins-Wade 2008a, as cited by ASM). The development of a Falls Management Plan was a requirement of the City of Oceanside's Reclamation Plan approval. The plan was developed to protect this significant resource during the Quarry Reclamation project and prior to the approval of a development plan for the surrounding property. It was approved by the City of Oceanside in June 2010. The Falls Management Plan applies to the area within 200 feet of the El Salto Falls. Mitigation measures implemented by the Falls Management Plan included:

- Consultation with the San Luis Rey Band of Mission Indians regarding any work within the limits of the management plan area;
- Native American monitoring of all work within the plan area;
- Designation of a site manager;
- Measures to prevent unlawful entry and trespass;
- Access to the El Salto Falls by Luiseño tribal members;
- Security monitoring of the management plan area; and
- Guidelines for maintenance and cleanup of the management plan area.

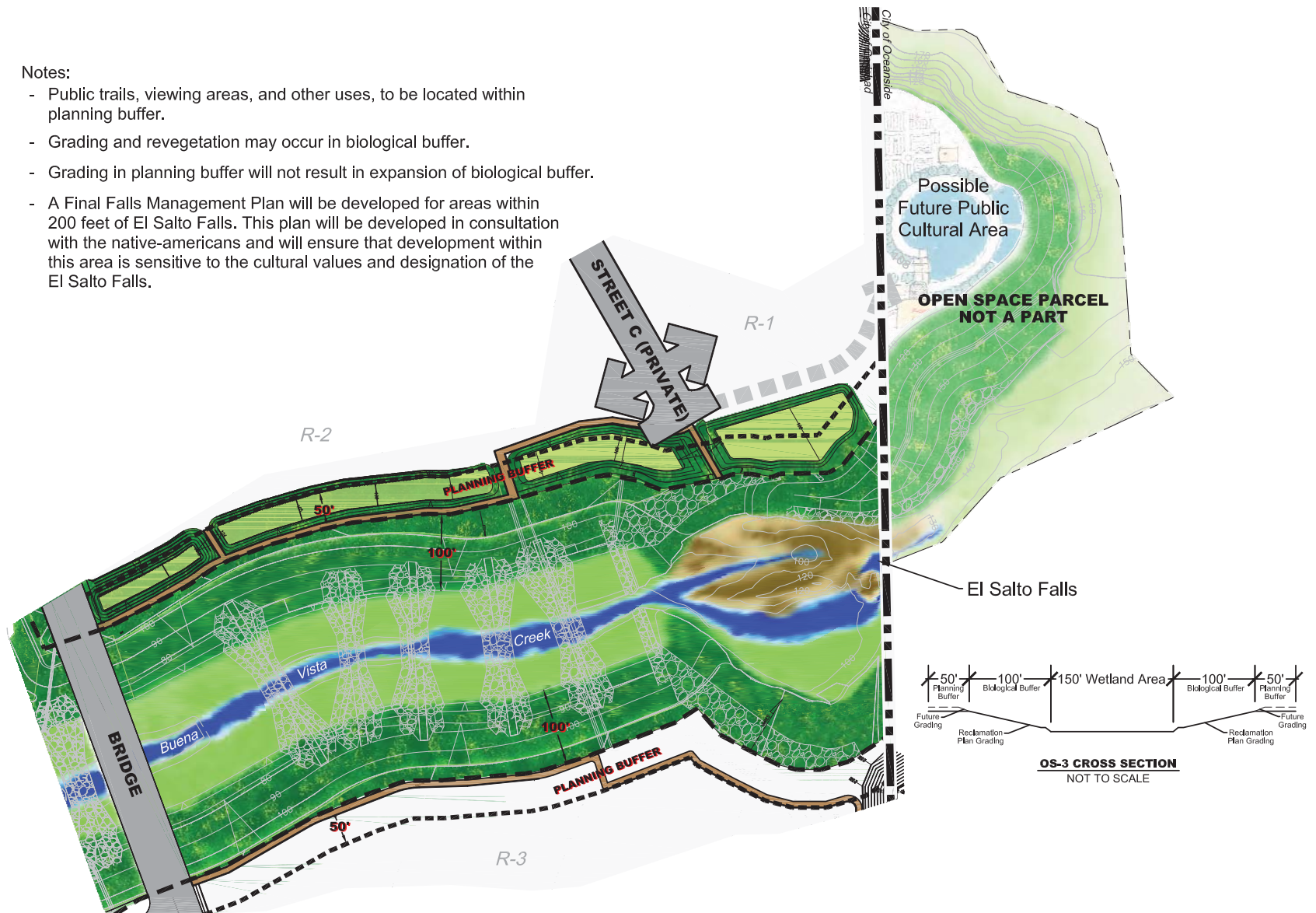
As part of the Reclamation Plan, the El Salto Falls area was preserved in open space. Figure 5.5-1 depicts the proposed Planning Area OS-3 Conceptual Site Layout. The applicant would be required to comply with the management plan's provisions until and unless the plan is superseded by a development and management plan associated with any future use of the affected area, or portion thereof. Implementation of Mitigation Measure CR-2 will reduce any potential impact to El Salto Falls to a level less than significant.

### **Cultural Landscapes**

In assessing impacts to cultural resources on the Reclamation property for the Former South Coast Quarry Amended Reclamation Plan, Affinis stated that, in addition to being a TCP, the El Salto Falls was part of a former cultural or ethnographic landscape that included the entire Buena Vista Creek watershed:

Notes:

- Public trails, viewing areas, and other uses, to be located within planning buffer.
- Grading and revegetation may occur in biological buffer.
- Grading in planning buffer will not result in expansion of biological buffer.
- A Final Falls Management Plan will be developed for areas within 200 feet of El Salto Falls. This plan will be developed in consultation with the native-americans and will ensure that development within this area is sensitive to the cultural values and designation of the El Salto Falls.



## Proposed Planning Areas OS-3 Conceptual Site Layout

FIGURE 5.5-1





The entire Buena Vista Creek watershed can be considered a traditional cultural landscape or ethnographic landscape in that the area was intensively used by the ancestors of the present-day Luiseño people and continues to be of importance to the Luiseño today. Buena Vista Creek served as a transportation corridor between the inland, upstream area and the coast. The dozens of archaeological sites attest to the use of this area for thousands of years. The archaeological sites in the western portion of the Buena Vista Creek watershed, including the project area, appear to be elements of a *rancheria* whose main habitation-site was located overlooking Buena Vista Lagoon. The definition of the boundaries of this cultural landscape is beyond the scope of the current study, as the Reclamation Plan project area covers such a small portion of this large area. However, the project area does include an important traditional cultural property or sacred site, El Salto Falls. Buena Vista Creek, which runs through the project area, is the primary connecting feature of the cultural landscape. In addition to numerous archaeological sites representing the Native American people prior to the Spanish contact, the Buena Vista Creek area includes Mexican and American era ranchos to which the Luiseño people have connections as well (Robbins-Wade 2008a).

Affinis determined that only remnants of the former cultural landscape remained due to decades of urbanization.

The character-defining features that would contribute to significance of the Buena Vista cultural landscape would include a wide range of archaeological sites including a small number of large residential sites such as the large village site overlooking the Buena Vista lagoon, and a larger number of smaller temporary camps, food processing stations, extraction-sites, and sacred sites. Also included in the cultural landscape would be natural landforms and native flora and fauna.

The Buena Vista Creek watershed does not retain sufficient integrity as a cultural landscape to be determined a significant historical resource. The vast majority of this natural watershed, both upstream and downstream of the project site, has been urbanized, leaving a small remnant of undeveloped land. The majority of cultural resources recorded in the 1950s to 1970s within the Buena Vista watershed have been destroyed as a result of urban development. The presence of SR-78 and development along the highway corridor has dramatically impacted the area. The El Salto Falls and the Buena Vista Creek in the Reclamation parcel have been significantly modified through quarrying activity and recent reclamation. The number and range of cultural resources within the remaining undeveloped parcels are also lacking. Only one site CA-SDI-5651, Locus 1 was determined to be a significant resource. The remaining sites on the Panhandle property and the Reclamation property were minor resources determined to be not significant (ASM, Affinis). Natural landforms and native species have also been severely impacted by urban development. The integrity of undeveloped parcels is diminished as a result of the proximity of urban development. Specifically, the integrity of location, setting, feeling, and association of the undeveloped Panhandle parcel has been diminished by indirect visual and auditory impacts as a result of nearby development including residential development to the south, SR-78 to the north, commercial development to the east and west. Furthermore, the 96-acre Panhandle property represents too small a remnant of the original Buena Vista Creek cultural landscape to represent the historic character or appearance of the original cultural landscape.

The undeveloped land in the Panhandle property represents a relatively intact portion of the former landscape. This area is too small a remnant of the original Buena Vista Creek cultural landscape to represent the historic character or appearance of the original cultural landscape. The integrity of this area

has also been diminished by indirect visual and auditory impacts as a result of nearby development. Therefore, the proposed project would not have a significant adverse effect on a cultural landscape.

### ***Unknown Cultural Resources***

Due to the history of the project site and the existence of known cultural resources sites within the project site boundaries and vicinity, it is very likely that previously unearthed resources may exist within the project site. Earth moving activities during construction, especially in the undisturbed Panhandle parcel, could potentially unearth unknown buried resources, which could result in damage to the resource. The potential for the project to result in damage to a previously unknown cultural resource is considered a significant impact. Implementation of Mitigation Measure CR-4 would reduce this impact to a level less than significant.

### ***Paleontological Resources***

According to HELIX, fill and native topsoil deposits within the site exhibited no sensitivity for paleontological resources, based on their recent age, origin and destructive nature of formation and deposition. On-site alluvial and colluvial materials were assigned low paleontological resource sensitivity, due to their relatively recent age, high-energy formation/deposition environment, and the fact that, with rare exceptions, significant fossil occurrences are unknown from alluvial/colluvial deposits in San Diego County (HELIX 2010).

While known fossil occurrences are rare in Quaternary river terrace deposits, this unit was assigned moderate paleontological resource sensitivity within the site based on the fact that terrace deposits have produced important vertebrate remains in other locations (HELIX 2010). The Tertiary Santiago Formation is assigned high paleontological resource sensitivity, based on known occurrences of important terrestrial vertebrate fossils from the Oceanside/Carlsbad area including reptiles, birds, and mammals (Deméré and Walsh 1993, as cited by HELIX 2010). Paleontological resource sensitivity for the on-site Tertiary volcanics and Salto Intrusive is zero, due to the molten or pyroclastic origin of these rocks (HELIX 2010).

Implementation of the proposed project would result in a potentially significant paleontological resource impact in association with grading/excavation in previously undisturbed areas of the Quaternary terrace deposits (moderate sensitivity) and the Tertiary Santiago Formation (high sensitivity). Implementation of Mitigation Measures CR-5 through CR-10 would reduce this impact to a level less than significant.

### ***Human Remains***

No evidence of human remains was observed within the project site. However, potential impacts to subsurface human remains resulting from construction of the proposed project may occur during excavation and grading. If human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a qualified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American and prehistoric, the NAHC must be contacted by the Coroner so that a “Most Likely Descendant” can be designated. The potential to impact human remains during grading activities is considered a significant impact. Implementation of Mitigation Measure CR-11 would reduce this impact to a level less than significant.

### **Off-site Improvements**

Implementation of the proposed project will involve the construction of off-site improvements as described in EIR Section 3.0. These improvements include the construction of sewer lines/connections, water and reclaimed water lines/connections, trailhead improvements, improvements to Haymar Drive, and off-site grading in two areas immediately east of the project site. Off-site utility improvements (domestic water main connection and reclaimed water line) occur with the area identified as Site SDI-5601. ASM conducted an evaluation of this identified site that falls within the project boundaries, as described above. The portion of SDI-5601 within the project site is not eligible for listing in the CRHR, as it has no evident research potential; therefore, SDI-5601 is not considered a historical or archaeological resource under CEQA and the City's cultural resource guidelines. Additionally, Mitigation Measure CR-4 requires archaeological monitoring program for the Panhandle parcel and for any previously undisturbed portions of the Reclamation parcel. The off-site improvements for the utilities are located immediately adjacent to the Panhandle and Reclamation parcels. Mitigation Measure CR-4 would apply to the off-site improvement area. Therefore, potential impacts associated with the off-site utility improvements would be minimized.

The off-site grading activities associated with the parcel immediately adjacent to Planning Area R-1 (within the City of Oceanside) and the Marron Road trailhead improvements are not located within or adjacent to identified cultural resource sites. However, the parcel within the City of Oceanside is not far from El Salto Falls. Mitigation Measure CR-3 and CR-4 would apply to this off-site grading area as well. Additionally, Mitigation Measure CR-11 would apply to all off-site improvement areas. Therefore, impacts associated with off-site improvements would be less than significant.

### **5.5.4 Level of Significance Before Mitigation**

#### **Cultural and Archaeological Resources**

Construction activities could inadvertently impact Locus 1 at cultural resources site SDI-5651 within the project site. This resource, if not properly protected from construction activities, could be impacted. In addition, earth moving activities during construction could potentially unearth unknown buried resources, which could result in damage to the resource. The El Salto Falls will be located within Planning Area OS-3, which is proposed open space. A Final Falls Management Plan will be prepared to ensure any activities proposed within this area are sensitive to the cultural values and designation of the El Salto Falls. Damage to previously unknown/unrecorded resources would be considered a significant impact. Mitigation measures associated with these potential impacts are identified below in Section 5.5.5.

#### **Paleontological Resources**

Implementation of the proposed project would result in potentially significant paleontological resource impacts in association with grading/excavation in previously undisturbed areas of the Quaternary terrace deposits (moderate sensitivity) and the Tertiary Santiago Formation (high sensitivity). Therefore, development of the proposed project may directly or indirectly negatively impact or destroy a yet unidentified paleontological resource without proper mitigation. Impacts are potentially significant. Mitigation measures associated with these potential impacts are identified below in Section 5.5.5.

#### **Human Remains**

No evidence of human remains was observed within the project site; however, the possibility remains of undiscovered human remains to exist on-site. Potential impacts to human remains resulting from

construction of the proposed project would occur during excavation and grading. Mitigation measures associated with these potential impacts are identified below in Section 5.5.5.

### **Off-site Improvements**

Construction activities could inadvertently impact unknown buried resources. Earth moving activities during construction could potentially unearth unknown buried resources, which could result in damage to the resource. Mitigation measures associated with these potential impacts are identified below in Section 5.5.5.

### **5.5.5 Environmental Mitigation Measures**

The following mitigation measure shall be implemented by the applicant to minimize impacts to cultural resources site SDI-5651.

- CR-1** Prior to initiating any grading or construction activities, temporary construction fencing shall be erected around Locus 1 at site SDI-5651. The limits of fencing shall be established in consultation with an archaeological monitor, and the archaeological monitor shall verify the location of the fencing in relation to Locus 1 in the field. Erecting fencing around Locus 1 will ensure no disturbance to the area occurs during earth work activities.
- CR-2** A Final Falls Management Plan shall be developed for areas within 200 feet of El Salto Falls. This plan shall be developed in consultation with the appropriate Native American tribe(s) and shall ensure that any improvements or activity in this area is sensitive to the cultural values and designation of the El Salto Falls.

The following mitigation measure shall be implemented by the applicant to minimize impacts to unknown buried cultural resources.

- CR-3** The following mitigation measures will be implemented as a result of consultation with the San Luis Rey Band:
1. During vegetation removal, all archaeological sites including CA-SDI-9967, CA-SDI-17863 and Site CA-SDI-5651 Loci 2-5 will be brushed using brush mowers or other equipment that does not disturb soil to allow enhanced surface inspection and collection.
  2. A team of archaeologists and Native American monitor will conduct a surface collection of all site areas. All artifacts recovered will be mapped using a hand-held GPS. Surface artifacts will be returned to the San Luis Rey band for reburial or curation.
  3. The alignment for a sewer line at site CA-SDI-17863 will be exposed for surface collection using a flat edged bucket on a backhoe prior to excavation of the sewer.
  4. All other sites will have controlled grading performed using a rubber-wheeled backhoe with a flat-edged blade.
  5. Notes directing this process will become notes on the grading plans and will be included in the monitoring agreement. The notes will denote these areas as “environmentally sensitive areas.”

- CR-4** Prior to initiating any grading or construction activities, the applicant shall contract with a qualified archeologist to conduct an archaeological monitoring program for the Panhandle parcel and for any previously undisturbed portions of the Reclamation parcel. The monitoring program shall include the following:
1. Prior to implementation of the monitoring program, a pre-excavation agreement shall be developed between the San Luis Rey Band of Luiseño Mission Indians, the applicant and the Cities of Oceanside and Carlsbad.
  2. The qualified archaeological and Native American representative shall attend a pregrading meeting with contractors to explain the requirements of the program.
  3. An archaeologist and Native American monitor shall be on-site during all grading, trenching, and other ground-disturbing activities.
  4. If archaeological artifact deposits or cultural features are discovered, grading activities shall be directed away from these deposits to allow a determination of potential importance. Isolates and clearly non-significant deposits will be minimally documented in the field and grading shall proceed. For any significant artifact deposits, data recovery shall be completed. This will require collection of an adequate artifact sample using professional archaeological collection methods.
  5. Recovered artifactual materials shall be cataloged and analyzed.
  6. A report shall be completed describing the methods and results of the monitoring and data recovery.
  7. Artifacts shall be curated to current professional repository standards at an appropriate curatorial facility, or the collection may be repatriated to the San Luis Rey Band, as specified in the pre-excavation agreement.

The following mitigation measures shall be implemented by the proposed project to minimize impacts to paleontological resources.

- CR-5** A qualified paleontologist shall monitor all grading that includes initial cutting into any area of the project site as the project site sits on paleontologically sensitive late Quaternary terrace deposits and the Tertiary Santiago Formation deposits. If any paleontological resources are identified during these activities, the paleontologist shall temporarily divert construction until the significance of the resources is ascertained.
- CR-6** Paleontological monitoring shall occur only for those undisturbed sediments wherein fossil plant or animal remains are found with no associated evidence of human activity or any archaeological context.
- CR-7** Paleontological monitors shall be equipped to salvage fossils as they are unearthed to avoid construction delays, and to remove samples of sediments which are likely to contain the remains of small fossil invertebrates and vertebrates. Monitors shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens. Monitoring may be reduced if the potentially fossiliferous units described above are not present or if the fossiliferous units present are determined by a qualified paleontological monitor to have low potential to contain fossil resources.
- CR-8** All recovered specimens shall be prepared to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates.

**CR-9** Specimens shall be identified and curated into an established, accredited, professional museum repository with permanent retrievable storage. The paleontologist shall have a written repository agreement in hand prior to the initiation of mitigation activities.

**CR-10** A report shall be completed describing the methods and results of the monitoring and data recovery program.

The following mitigation measure shall be implemented by the proposed project to minimize potential impacts to human remains.

**CR-11** If human remains are found during any ground disturbance associated with project development activities, including the archaeological test or data recovery programs, the agency must comply with Public Resources Code (PRC) 5097.98.

- a) The discovery location will be protected and secured from further disturbance.
- b) The Archaeological Project Manager will contact the San Diego County Medical Examiner.
- c) If the remains are determined by the Medical Examiner or an authorized representative to be Native American, the Medical Examiner will contact the NAHC.
- d) The NAHC will designate and contact the Most Likely Descendant (MLD).
- e) The property owner will provide the MLD with access to the discovery location, which will have been protected from damage.
- f) The MLD will make a recommendation for treatment of the remains within 48 hours. Possible options for treatment include:
  - i) Preservation in place and avoidance.
  - ii) Removal by a qualified archaeologist. Analysis by an osteologist or physical anthropologist may or may not be possible.
  - iii) Repatriation of the remains to the MLD following the Native American Graves Protection and Repatriation Act (NAGPRA) process.
  - iv) Reburial of the remains on the property.
- g) If the MLD does not make a recommendation within 48 hours, or if the recommendations are not acceptable to the property owner following extended discussions and mediation, the property owner will reinter the remains and burial items with appropriate dignity on the property, in a location not subject to further subsurface disturbance. The location of reinterment will be protected by one of the three following measures:
  - i) Record the location with the NAHC or the SCIC.
  - ii) Utilize an open space or conservation zoning designation or easement.
  - iii) Record a document with San Diego County.
- h) If multiple human remains are found, extended discussions will be held with the MLD. If agreement on the treatment of these remains is not reached, they will be reinterred in compliance with PRC 5097.98(e).

### 5.5.6 Level of Significance After Mitigation

#### **Historic and Archaeological Resources**

SDI-5651, Locus 1 is recommended eligible for listing in the CRHR and considered a cultural resource under CEQA and the City's cultural resource guidelines. Subsurface deposits are present at Locus 1 to a depth of 70 centimeter (cm), and these deposits contain a sufficient quantity and range of cultural materials for analysis. Locus 1 will be preserved in open space. The project will therefore not result in a significant impact to historical or archaeological resources associated with Locus 1. However, construction activities could inadvertently impact this resource if not properly shielded from construction activities. Mitigation Measure CR-1 identified in Section 5.5.5 would require construction fencing around Locus 1 to ensure no disturbance to the site during earthmoving activities. This would reduce any impacts to a less than significant level.

Implementation of Mitigation Measure CR-2, which requires preparation of a Final Falls Management Plan, will ensure that no impacts occur to the El Salto Falls.

Because survey and records search data suggest very high probability for the occurrence of previously undiscovered cultural resources on the proposed project site, an archaeological monitor is required. Mitigation Measures CR-3 and CR-4 identified above would require the preparation of an archaeological monitoring program that would include on-site monitoring during construction activities. This would ensure that if previously unrecorded resources are uncovered during construction of the project, the resource would be properly evaluated and avoided; resulting in a less than significant impact.

#### **Paleontological Resources**

Due to the presence of sediments that may contain fossils, the potential for significant impacts to paleontological resources would occur. With implementation of the construction monitoring and curation of fossils (if found), the impacts would be reduced to below a level of significance. With implementation of Mitigation Measures CR-5 through CR-10, impacts to undiscovered paleontological resources located on-site would be less than significant.

#### **Human Remains**

Due to the possibility of undiscovered human remains occurring on-site, the potential for significant impacts to these resources would occur. However, with the implementation of Mitigation Measure CR-11, impacts to human remains located on-site would be less than significant. In summary, potential impacts would be reduced to below a level of significance through incorporation of mitigation measures.

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